



ARIZONA BOARD OF APPRAISAL

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MINUTES REGULAR BOARD MEETING Friday, January 21, 2011 9:04 AM

Call to Order and Roll Call

Regular Board meeting called to order by Les Abrams, Chairman.

Board members Present at Roll Call:

Les Abrams
Debbie Rudd
Cynthia Henry
Myra Jefferson
James Heaslet
Michael Marquess
Michael Petrus
Mike Trueba
Kevin Yeanoplos

Staff Attendance:

Dan Pietropaulo – Executive Director
Jeanne Galvin – Assistant Attorney General
Rebecca Loar - Staff
Amanda Benally - Staff

Pledge Allegiance to the Flag of the United States of America

Approval of Minutes

Mike Trueba made a motion to approve the November minutes. The motion was seconded by Myra Jefferson and passed, Cynthia Henry recused herself.

James Heaslet made a motion to approve the December minutes. The motion was seconded by Mike Trueba and passed; Debbie Rudd, Kevin Yeanoplos, and Myra Jefferson recused themselves

Call to the Public

A call to the public was made with no responses.

Review and Action concerning 2867 Jeffrey M. Playford

Respondent appeared. Debbie Rudd made a motion to accept the respondent's counteroffer and James Heaslet seconded the motion and passed unanimously.

Review and Action concerning 2909 Michael Jeklinski

Respondent appeared. Debbie Rudd made the motion to accept the investigator's report and James Heaslet seconded the motion, the motion passed unanimously.

Debbie Rudd made the motion to find a Level 3 and offer a consent agreement and order of discipline citing violations 1-1 (b); 1-2; 1-2 (h); 1-4; 1-6; 2-1 (a) & (b) ; 2-2; 2-2 (b)(v); 2-2 (b)(vii); and 2-2 (b)(viii); requiring disciplinary education. James Heaslet seconded the motion, Mike Petrus voted no, motion passed

Review and Action concerning 2735 Calista J. Fiedler

Respondent appeared. Michael Petrus made the motion to terminate respondent's probation and mentorship. Debbie Rudd seconded the motion, Cynthia Henry voted no, the motion passed.

Informal Hearing concerning 2826 Gary A. Carter

Respondent appeared, was sworn in. Respondent gave an opening statement: I was misleading in the site value and made other errors. I do agree with the investigative report but I don't feel everything he talked about there was my error, my experience was very lacking, lack of documentation. On the comparables, I had problems with my guest house adjustments. Respondent answered the Board's questions. Michael Petrus moved that the Board find Level 2, and offer a nondisciplinary letter of remedial action citing the violations Ethics Rule – Conduct and Competency; 1-1 (b) and (c); 2-2 (a), (b), and (c) requiring remedial education. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Informal Hearing concerning 3159 Richard M. Ligas

Respondent appeared, was sworn in and gave an opening statement and answered the Board's questions. Michael Petrus asked respondent why the sale comparable 1 was not adjusted, comp 3 backs up to Elliot, and respondent did acknowledge that he knew about it and that is should have been in the report. Debbie Rudd discussed the 1004MC and asked respondent if he thought he did enough to support his market trends on the report? There was discussion regarding his market trend analysis and discussion that the 1004MC form is very misleading and is flawed. Debbie Rudd moved that the Board find a Level 1, and offer a nondisciplinary letter of concern citing violations 1-1b & 1-3a for saying that the subject neighborhood was stable and declining, for saying the report was misleading, and for not making any time adjustments on the comparables and recommended respondent take a market trends class but is not required to do so. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion.

Informal Hearing concerning 3163 Jon W. Reeve

Respondent appeared, was sworn in and gave an opening statement and answered the Board's questions. Debbie Rudd found errors in addendum and in the adjustments for

comparable 1. Michael Petrus was concerned of the design quality adjustment. Debbie Rudd was concerned that the respondent doesn't know between a public and private street and didn't notice the property was gated. Michael Petrus was concerned with the respondent's description and identification of subject property. Debbie Rudd moved that the Board find a Level 2, and offer a nondisciplinary letter of remedial action citing violations 1-2 (e) for not listing "gated" in the work file, 1-1 (c) for cloning report, and 2-2 (b) (iii) for not listing "gated" in the report and requiring remedial education. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Informal Hearing concerning 3174 Scott A. Armstrong

Respondent appeared, was sworn in and answered the Board's questions. Debbie Rudd discussed the issue regarding solar panels as public property, or private property and that horse property as a view was listed on the report. Comparable 1 and 4 the respondent made location adjustments but no adjustments for the subject's location to the freeway. Discussion about respondent's market analysis and the rate of decline of the market area from the limited data determined from broker metrics. There is nothing in the report to support market declining in report. Respondent made a closing statement: if I failed to print off my data sources and broker matrix to show the value trends, I still feel they are well supported. Debbie Rudd moved that the Board find a Level 3, and offer a consent agreement and order for probation citing violations; 1-1 (a) for time adjustments not credible; 1-1 (b) for omission regarding close proximity to freeway; 1-1 (c) for misspellings in report; 1-2 (e) solar panels are not personal property; 2-2 (b) the report is not credible; and providing for probation, mentorship and disciplinary education. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. If respondent doesn't sign combine this with complaint 3165 and send to same investigator for investigation.

Informal Hearing concerning 2964/2965/2966/2967 Razvan P. Silvas

Respondent did not appear. Debbie Rudd moved that the Board offer a consent agreement and order for voluntary surrender. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3169 Josh C. Allison

Respondent appeared telephonically. Staff summary was read. This is regarding a property located in Glendale, Maricopa County. Complaint Alleges: Biased appraisal prepared for debtor in bankruptcy hearing. I believe the appraiser's fee was contingent on a pre-determined minimum value. Respondent Replies: This is a false complaint, proper market analysis and comparable selection, and real estate research went into my report that is well supported. Debbie Rudd moved that the Board refer this to investigation. James Heaslet seconded the motion. Discussion: Michael Petrus felt the respondent is competent to do the property, the question of size represents the rent role in the income approach it was recognized and consistent. I found the report to be credible. Debbie Rudd stated that she did not find the report to be credible with an 8.5 cap rate on a 52% occupied office building. Cynthia Henry and Michael Petrus voted no. The motion passed.

Review and Action concerning 3183 – Keith E. Sandt

Respondent appeared. Staff summary was read. This is regarding a property located in Gilbert, Maricopa County. Complaint Alleges: Following a field review, discrepancies were found of a serious nature

Respondent Replies: In my opinion no fraud was committed; I stated my opinion of value with supported data with no personal gain. Discussion about comparable selection, square footage in relation to GLA (Gross Living Area) with the loft. Debbie Rudd is concerned that the selection of comparable three is much newer and higher quality than the subject property, and some of the respondent's comparables are custom homes but there are not a lot of sales in the area. Debbie Rudd moved that the Board find no violations and dismiss the complaint. Cynthia Henry seconded the motion. Then Debbie Rudd and Cynthia Henry withdrew their motion. James Heaslet moved that the Board finds a Level 1 and offer a nondisciplinary letter of concern citing violation 1-4 (a) in regards to the sales approach. Mike Trueba seconded the motion. Debbie Rudd voted no. The motion passed.

Review and Action concerning 3119 Jay B. Clark

Respondent appeared. Staff summary was read. This is regarding a property located in Phoenix, Maricopa County. Complaint Alleges: The complaint is a result of the Board's review of documents subpoenaed during its consideration of complaint #2896 filed against Jorge Aguilar regarding his appraisal and your subsequent review of the same property concerning several USPAP violations. Respondent Replies: As you can see I did a very cursory review of the report with the sole intent of having them put that data into the complaint, not to use my name or emails in the complaint. Debbie Rudd informed the respondent that if he did a review either in an email, form, etc. it is still a review and the respondent did not have a signed certification in the work file, the respondent still needs to comply with Standard 3. Debbie Rudd moved that the Board find a Level 2 and offer nondisciplinary letter of remedial action citing violations; 3-1 (a), (b), and (c); 3-2 (c); and 3-3 and requiring remedial education. Mike Trueba seconded the motion. Michael Petrus stated he thinks this discipline is too much and should be a Letter of Concern. James Heaslet, Kevin Yeanoplos, and Michael Petrus voted no. The motion passed.

Review and Action 3178 – Thomas M. Oneill

Respondent appeared. Staff summary was read. This is regarding a property located in Phoenix, Maricopa. Complaint Alleges: The appraiser is incompetent, possibly due to inexperience. Respondent Replies: The subject location was given the primary consideration, followed by the improvements, size, effective age, upgrades, and bracket the value range of the subject. The comparable sales best reflect the subject location and fall within standard appraisal guidelines. Debbie Rudd stated that the market increase didn't seem credible.

Michael Petrus stated that this is a business decision issue and not a USPAP violation. Michael Petrus moved that the Board find no violations and dismiss this complaint. Debbie Rudd seconded the motion. James Heaslet voted no. The motion passed.

Review and Action 3175- James A. Gonzalez

Respondent appeared. Staff summary was read. This is regarding a property located in Overgaard, Navajo County. Complaint Alleges: Completed a desk review out of his geographical area and provided information that is not pertinent to the subject property, information is misleading. Respondent Replies: This complaint is without merit, I am competent to appraise in the area and completed a credible desk review. Discussion regarding the Board's concern about the respondent's geographical competency with his reviews. Possible restriction on his practice. There was some discussion on business practice vs. USPAP violations. Debbie Rudd moved that the Board find a Level 4 and offer a consent agreement and order to restrict respondent's practice and provide for

probation to include respondent to present to the Board on steps he has taken to become geographically competent; citing violation Ethics Rule - Competency. and combine previous complaint 3102 with this Consent Agreement. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 3055- David L. Koch

Respondent appeared telephonically. Debbie Rudd moved that the Board accept respondent's counteroffer. James Heaslet seconded the motion. Michael Petrus recused himself. The Board voted unanimously with one recusal in favor of the motion.

Review and Action 3127 – Michael J. Bobik

Respondent appeared. Debbie Rudd stated that the respondent did not inspect the property but signed as a supervisor appraiser. Respondent replied that he is only negligent on who can and cannot sign an appraisal. Findings of Fact #4 a 9000 sq. foot is not an over improvement for this area. Michael Petrus moved that the Board accept the respondent's counteroffer. James Heaslet seconded the motion. (Mike Trueba, Debbie Rudd, and Les Abrams voted no. The motion passed.

Review and Action 3142- Chester T. Welch

Respondent appeared. Staff summary was read. This is regarding a property tax agent complaint for a property located in Yavapai County. Complaint Alleges: The agent presented fraudulent and misleading information with his appeal to the Yavapai County Assessor's Office. Respondent Replies: I did not attempt to mislead or fraudulently represent evidence. I was merely attempting to present a case to the County Board as to why the subject property was overvalued. Michael Petrus moved that the Board find a Level 1 and offer nondisciplinary letter of concern citing violations; that your appeals look too much like an appraisal and you had a Performa that had three years and it was confusing when it came to the income approach because they usually do not have 3 years of Performa and must be corrected to reflect the industry standards. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 2795 – Chad L. Fuller

Respondent did not appear, complainant appeared. Debbie Rudd moved that the Board refer this to formal hearing for failure to respond to the Board and failure to sign proposed consent agreement and order. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 3168 –Bob L. Gorski, Jr.

Respondent appeared. Staff summary was read. This is regarding a property located in Phoenix, Maricopa County. Complaint Alleges: Following a review and comparing an AVM with the respondents report many errors were found. Respondent Replies: There is nothing fraudulent in this appraisal. The best data available was utilized and a supportable value conclusion was made. Debbie Rudd stated to the respondent that he added data to his work file and that a deed of trust is not a sale. The respondent did not go far enough in his due diligence with 2 sales. Two sales are not credible since you cannot prove the sales information and that the respondent had typographical errors from a closed report. Michael Petrus moved that the Board find no violations and dismiss the complaint. Kevin Yeanoplos seconded the motion. James Heaslet voted no. The motion passed.

Review and Action 2905- Matthew D. Wright

Respondent did not appear. Debbie Rudd moved that the Board accept the investigative report. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion. James Heaslet moved that the Board find a Level 2 and offer a nondisciplinary remedial action letter citing violations 1-1 (a); 1-1 (b); Ethics Rule - Recordkeeping; 2-1 (a); and 2-2 and requiring remedial education. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 2385/2386/2387/2388/2389/2390/239 – William H. Moffett

Respondent did not appear. Debbie Rudd moved that because Respondent's 90-day grace period to renew had expired, the complaints be closed, but to be reopened and considered in the event Respondent reapplies. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 2481 – Daniel W. Mahoney

Respondent did not appear. Michael Petrus moved that because Respondent's 90-day grace period to renew had expired, the complaints be closed, but to be reopened and considered in the event Respondent reapplies. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 2847 – Jay K. Wolfson

Respondent did not appear. Debbie Rudd moved that the Board refer this to formal hearing for failure to sign proposed Consent Agreement and Order for Voluntary Surrender. Cynthia Henry seconded the motion. Debbie Rudd and Cynthia Henry withdrew their motions. James Heaslet moved that the Board include language that the respondent neither admit nor deny the conclusions of law and reoffer the proposed consent agreement and order and if he doesn't sign then refer this matter to formal hearing before the Office of Administrative Hearings. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 3057 – Geoffrey C. Brady

Respondent did not appear. Les Abrams moved that the Board offer respondent a consent agreement and order for voluntary surrender, if respondent doesn't sign within 10 days, this matter will go back to the Board. Debbie Rudd seconded the motion. Les Abrams and Debbie Rudd withdrew their motions. James Heaslet moved that the Board offer respondent a consent agreement and order for voluntary surrender and instruct staff to attempt to contact him, if respondent doesn't sign; this matter will go back to the Board. Kevin Yeanoplos seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 3160 – John M. Zaun

Respondent did not appear. Staff informed Board that respondent did not attend this meeting and felt his response was sufficient. Staff summary was read. This is regarding a property located in Mesa, Maricopa County. Complaint Alleges: The appraiser violated USPAP by providing a misleading report. Respondent Replies: The report has some very minor reporting errors. It is my opinion that the subject property was valued properly as the effective date of the appraisal. Debbie Rudd moved that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action 3182 – Richard T. Salceda

Respondent did not appear. Staff summary was read. This is regarding a property located in Flagstaff, Coconino County. Complaint Alleges: The appraisal is unacceptable and appears to be bias. The appraiser used distressed sales for comps. Respondent Replies: Market research and best comps to reflect the current market were used. This complaint is without merit. James Heaslet did not find the comparables to be credible and moved that the Board refer this to investigation. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

12 File Review

Jeanne Galvin, Assistant Attorney General gave a report to the Board outlining the 12 month status report.

New Business: Discussion, consideration, and possible action on legislation proposed by CoAA (Coalition of Arizona Appraisers).

Ben Alteneder CoAA lobbyist & Sue Miller Past President w/ Appraisal Institute. The Board has read the proposed legislation. Jeanne Galvin, Assistant Attorney General is concerned how A.R.S. § 41-1092.11 conflicts with the proposed legislation. There was some discussion and concern changing the assignments of the board public members. Les Abrams suggested that CoAA representatives contact Jeanne Galvin, Assistant Attorney General and keep the board apprised of the status of this proposed legislation. Jeanne Galvin, Assistant Attorney General, and Dan Pietropaulo, the Executive Director will stay in contact with CoAA and contact the chairperson and determine if a meeting is needed it can be scheduled for any future developments.

Les Abrams read an email from Equifax an AMC (Appraisal Management Company). "ESS has completed the AMC licensing process with numerous States, however, the communications and specific correspondence we have received from the Arizona Board during this new industry application process has been nothing short of spectacular. Dan Pietropaulo, Executive Director and his team have been an extremely valuable source of continual information and actively communicated professionally throughout this process in helping us meet this newly developed industry standard requirement. Our sincere appreciation and thanks goes out to all Arizona Board of Appraisal licensing/development services staff members and Dan for helping us successfully navigate through this process."

AMC's (Appraisal Management Companies) Ratification: Discussion, consideration, and possible ratification of AMC's approved for registration.

Les Abrams read into the record each AMC listed on the consent agenda. All of these AMCs are currently on the approved AMC list posted on the Board's website and are already authorized to do business in Arizona. James Heaslet moved that the Board ratify all of the AMCs on the consent agenda. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Chairperson Report

Les Abrams informed the Board that Michael Petrus has volunteered for application review and education review committees and he has appointed him to both committees.

Ex. Director Report

Jeanne Galvin, Assistant Attorney General reported to the Board that all the Assistant Attorney General's assignments are current. Dan reported to the Board that there are two complaints that were extended by staff. Dan reported that there are currently three complaints waiting for formal hearing, three complaints waiting for an informal hearing, thirty six complaints waiting for investigation, fifteen complaints that have come back from investigation, forty six complaints pending reply, and sixteen complaints that have replied and are waiting to be heard before the Board. James Heaslet informed Dan Pietropaulo, Executive Director that he would like to see the term complaint be changed to inquiry due to the for seen anticipated on-slaught from the Dodd-Frank Bill. Dan Pietropaulo, Executive Director discussed the Referral of Suspicious Appraisal Activity Form with the Board for discussion and consideration, and possible adoption. The board directed Dan Pietropaulo, Executive Director to incorporate the form with the Board's existing complaint form and make available on the Board's website. Dan Pietropaulo, Executive Director recommended to the Board to approve The Appraisal Foundation "Voluntary Disciplinary Matrix. The Board instruct Dan Pietropaulo, Executive Director to look and see if the foundation has a more current version and get back with the board next month.

Application Review Committee

James Heaslet reported the following Arizona appraiser and property tax agent information as of January 13, 2011:

	<u>1/09</u>		<u>1/10</u>		<u>1/11</u>
Licensed Residential	841		634		486
Certified Residential	1248		1211		1183
Certified General	824		813		805
Nonresident	38	Total	51	Total	60
Temporary		2951		2709	2543
Property Tax Agents	285		355		353

James Heaslet moved the Board approve all items on the application review committee agenda except for application 7978, Kasia M. Kowalczyk; 7939 Jennifer L. Deuning; 40057 Aces Real Estate Appraisals of California; 40066 Collateral Appraisal Management, LLC.; 40089 USA Appraisals.biz.; and 40096 C & D Real Estate Appraisal Services, Inc. James Heaslet recommended to the Board that they disapprove the application as substantively incomplete and hold until substantively complete for application 7978, Kasia M. Kowalczyk. James Heaslet recommended to the Board that a complaint be opened against 40057 Aces Real Estate Appraisals of California; 40066 Collateral Appraisal Management, LLC. 40089 USA Appraisals.biz.; and 40096 C & D Real Estate Appraisal Services, Inc. for failure to produce a bond. Myra Jefferson moved that the Board accept the committee's recommendations with the exceptions as listed. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning Certified Residential Appraiser Application #7939, Jennifer L. Deuning.

Applicant appeared. Michael Petrus moved that the Board accept Jennifer L. Deuning's new classification application after she signs a consent agreement and order providing for probation and mentorship. Then she will be authorized to take the exam. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Education Review Committee

Debbie Rudd recommended to the Board that they approve all items on the education review committee agenda. Myra Jefferson moved the Board approve all items on the education review committee agenda. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion.

New Business B: Discussion, consideration, and possible action on communications/complaint relating to advertisements by Compchecksonly.com

Dan Pietropaulo, Executive Director presented to the Board and suggested this be referred to the Attorney Generals office for fraudulent advertising. Debbie Rudd moved that the Board refer this to the Attorney General for possible investigation for fraudulent advertising. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

New Business C: Discussion, consideration, and possible action concerning the election of officers for 2011

Les Abrams moved that the Board appoint Debbie Rudd as chairperson and James Heaslet vice chairperson. There was no second to the motion and the motion died. James Heaslet moved that the Board re-elect Les Abrams as chair person. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

James Heaslet moved that the Board re-elect Debbie Rudd as vice chair person. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Confirmation of Meeting Dates, Times, Locations and Purposes

The Rules Committee Meeting will meet on February 17, 2011. The Rules Committee Meeting time has changed to 10 a.m. The Application Review Committee Meeting time has changed to 1:00 p.m. and the Education Review Committee Meeting has changed to 1:30 p.m.

(AFTER THE MEETING THESE TIMES WERE CHANGED)

These dates have been changed to the following:

February

17	Budget Committee	10:00 a.m.
17	Rules Committee	11:00 a.m.
17	Application Review Committee	3:00 p.m.
17	Testing and Education Committee	3:30 p.m.
18	Board	9.00 a.m.

ADJOURNMENT

The meeting was adjourned.



Lester G. Abrams, Chairperson